

BILL ANALYSIS

C.S.H.B. 2679
By: Solomons
Financial Institutions
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Legislature clarifies statutes when confusion exists in certain financial transactions. C.S.H.B. 2679 amends the Finance Code to clarify certain sections regarding auto club memberships, loan rates, federal disclosures, multi-state licensing, computations for billing and retail charge agreements.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Office of Consumer Credit Commissioner in SECTION 5 of this bill.

ANALYSIS

C.S.H.B. 2679 amends the Finance Code to clarify that Section 303.203 applies to any loan contract subject to Subtitle A. The bill deletes language to resolve current conflict between Section 342.004 and 342.005. C.S.H.B. 2679 limits the use of choice of law provisions in certain consumer transactions to prevent evasion and application of Texas credit laws.

C.S.H.B. 2679 amends Finance Code to reiterate that federal disclosures in the Truth-in-Lending Act apply to all consumer transactions. If a national licensing system is created, C.S.H.B. 2679 permits the Office of Consumer Credit Commissioner to participate in the system. The bill amends the number of days that determine a month from 15 to 16 days for a retail installment contract. C.S.H.B. 2679 deletes language in Section 342.157 (a) on the competitive rate ceiling for retail charge agreements.

C.S.H.B. 2679 adds Sec. 345.2011, Finance Code relating to AGREEMENTS REGARDING DEBT SUSPENSION AND DEBT CANCELLATION. In connection with a retail installment transaction, C.S.H.B. 2679 permits a retail seller to offer to the retail buyer a debt suspension agreement or debt cancellation agreement under similar terms and conditions as such an agreement may be offered by a bank or savings association. C.S.H.B. 2679 states that a retail seller may not require that a retail buyer accept or provide an agreement or contract under Subsection (a). In addition to other disclosures required by state or federal law and before offering an agreement or contract authorized by this section, C.S.H.B. 2679 requires the retail seller to provide to the retail buyer a notice separate from the retail charge agreement documents stating that the retail buyer is not required to accept or provide the agreement or contract to enter a retail installment sale. C.S.H.B. 2679 states that the amount charged for a product authorized by Subsection (a) must be reasonable.

C.S.H.B. 2679 amends Section 345.211, Finance Code, to state that any gain or advantage to the holder or the holder's employee, officer, director, agent, general agent, affiliate, or associate from insurance or from another agreement or contract permitted under this subchapter or the provision or sale of insurance or another agreement or contract permitted under this subchapter is not an additional charge or additional time price differential in connection with a retail installment contract or retail sales agreement made under this chapter except as specifically provided by this chapter.

C.S.H.B. 2679 adds Section 348.1075, Subchapter B, Chapter 348, Finance Code regarding EXPEDITED PAYMENT SERVICE. C.S.H.B. 2679 defines "expedited payment service." C.S.H.B. 2679 permits a holder may collect from the retail buyer an amount for each payment made to the holder using an expedited payment service only if the use of the expedited payment

C.S.H.B. 2679 80(R)

service is authorized by the buyer, the amount does not exceed \$10 for each payment arranged through expedited payment service, and the buyer may use another reasonable method to make payments, including through standard mail service, without charge for the use of that method.

C.S.H.B. 2679 repeals Section 345.157 (d), (e) and (f) to conform provisions that relate to late charges with other law.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2679 amends the original by adding Sec. 345.2011, Finance Code relating to AGREEMENTS REGARDING DEBT SUSPENSION AND DEBT CANCELLATION. In connection with a retail installment transaction, C.S.H.B. 2679 permits a retail seller to offer to the retail buyer a debt suspension agreement or debt cancellation agreement under similar terms and conditions as such an agreement may be offered by a bank or savings association. C.S.H.B. 2679 states that a retail seller may not require that a retail buyer accept or provide an agreement or contract under Subsection (a). In addition to other disclosures required by state or federal law and before offering an agreement or contract authorized by this section, C.S.H.B. 2679 requires the retail seller to provide to the retail buyer a notice separate from the retail charge agreement documents stating that the retail buyer is not required to accept or provide the agreement or contract to enter a retail installment sale. C.S.H.B. 2679 states that the amount charged for a product authorized by Subsection (a) must be reasonable.

C.S.H.B. 2679 amends Section 345.211, Finance Code, to state that any gain or advantage to the holder or the holder's employee, officer, director, agent, general agent, affiliate, or associate from insurance or from another agreement or contract permitted under this subchapter or the provision or sale of insurance or another agreement or contract permitted under this subchapter is not an additional charge or additional time price differential in connection with a retail installment contract or retail sales agreement made under this chapter except as specifically provided by this chapter.

C.S.H.B. 2679 adds Section 348.1075, Subchapter B, Chapter 348, Finance Code regarding EXPEDITED PAYMENT SERVICE. C.S.H.B. 2679 defines "expedited payment service." C.S.H.B. 2679 permits a holder may collect from the retail buyer an amount for each payment made to the holder using an expedited payment service only if the use of the expedited payment service is authorized by the buyer, the amount does not exceed \$10 for each payment arranged through expedited payment service, and the buyer may use another reasonable method to make payments, including through standard mail service, without charge for the use of that method.